IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 374 OF 1998

The State of Maharashtra .. Applicant

versus

Balasaheb Ganpat Patil .. Respondents

...

Mr.A.M. Shringarpure, APP for the State.

None for the respondent.

CORAM : V.M. KANADE, J

DATED : 11th October 2004.

ORAL JUDGEMENT :-

1. Heard the learned APP appearing on behalf of the State.

2. The respondent accused was charged u/s.328 and 379 of the IPC. The prosecution case is that the

respondent gave mixed drugs in the food of PW nos.1 and 2 while they were travelling in the train and took the gold ornaments from their person. A complain was filed. Statements were recorded. The accused was arrested. He made a statement u/s.27 of the Evidence Act and the gold ornaments which were sold to PW no.7 and PW no.9 was recovered in a melted form from the two witnesses at the instance of the accused. The trial court after perusing the evidence on record came to a conclusion that the prosecution did not conduct Test Identification Parade and as a result came to the conclusion that it was a serious lapse on the part of the prosecution. As the accused was not known to the complainant, the trial Court also did not accept the case of recovery which was made at the instance of the accused. The trial Court after having held that the evidence of PW no.7 Dilip Saraf could not be relied upon as no specific details were given by him regarding ornaments which were produced by the complainant.

3. I have perused the record and proceedings and the evidence of the complainant PW no.1, PW no.2 as also the evidence of PW no.7 and other witnesses. In my view, the finding which was recorded by the trial

Court is reasonable. No reason to interfere with the said conclusion which is drawn by the trial Court on the basis of the evidence which is adduced by the prosecution.

4. Under the circumstances, appeal is dismissed.

V.M. KANADE, J